

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

***APPEAL FROM ORDER NO.473 OF 2019
WITH
CIVIL APPLICATION NO.540 OF 2019***

Girnar Jain Charitable Trust ...Appellant

Vs

The Designated Officer,
Asst. Engineer (Building and
Factory) F/South Ward, and Anr.

... Respondents

...

Mr. Pradeep Thorat with Mr. Rajesh M. Patil i/by Kiran Jain &
Co. for the Appellant.

Mr. Bhavik Manek with Mr. Ravindra Sirsikar for MCGM.

CORAM : SANDEEP K. SHINDE J.
DATE : MARCH 7, 2022.

P.C. :

Appellant, a charitable trust, has questioned the legality of the notice under Section 53(1) of the Maharashtra Regional and Town Planning Act, 1966 issued by the Respondent-Corporation, by which, the appellant was called upon to restore the temple premises in accordance with approved plan dated 25th May, 2000 situated at Girnar Tower, Lalbaug, Parel, Mumbai-400 033. Pending suit, the trial Court refused to stay the execution of the notice. However, the

learned trial Court vide order dated 9th April, 2019 granted temporary protection for the period of two weeks. That order is challenged in this appeal.

2 Corporation has filed reply and placed several documents like approved plan and Occupation Certificate on record to contend that, ‘change of user’ was unauthorised. Be that as it may, order under challenge was passed at the ad-interim stage, meaning thereby, Notice of Motion is yet to be decided on merits. Thus, in consideration of the fact that ad-interim protection is in force since 2019, I deem it appropriate not to interfere in the impugned order in appeal, but would request the trial Court to decide the motion, within three months from today on its own merits without being influenced by the ad-interim protection granted by the trial Court and same being continued by this Court.

3 Parties shall appear before the learned trial Court on 17th March, 2022 and place a copy of this order on record of the trial Court. The trial Court shall make an endeavour to decide the Notice

of Motion No.1559 of 2019 in Long Cause Suit No.940 of 2009 preferably before 6th May, 2022. Needless to state that till the decision in the motion, protection granted vide order dated 9th April, 2019 shall continue to operate.

4 Appeal is disposed off in the aforesaid terms.

5 As the appeal itself is disposed off, nothing survives in Civil Application therein and same is also disposed off

(SANDEEP K. SHINDE, J.)